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ROAN'S COMMENT BASIS

FOR NEW TRIAL, SAYS BRIEF

Supplemental Paper in Frank Case Won't Delay Final Decision

Attorneys for Leo M. Frank Wednesday morning completed the supplemental brief which they will file with the state supreme court. This brief covers sixty-three pages of typewritten legal cap paper, takes issue with a number of the arguments contained in the state's brief and especially contends that Frank is entitled to a new trial because Judge L. S. Roan, in overruling his motion for a new trial, took occasion to declare he was not convinced either as to the guilt or innocence of the accused.

Several pages of the supplemental brief, which is labeled "Reply Brief for Plaintiff in Error," is devoted to decision of the appellate and supreme courts reversing trial judges who in overruling motions for new trials took occasion to express reluctance or lack of entire approbation for the verdict rendered by the juries.

Every circumstance alleged by the state as indicating that Frank is guilty of the murder of Mary Phagan is discussed in the "reply brief." Most of these alleged circumstances are ridiculed and declared to be of no weight whatever. None of them are admitted to be worthy of consideration by the court.

Much of the ground gone over at Frank's trial, at the hearing upon his motion for a new trial and in the arguments before the supreme court are recovered in the "reply brief."

It confidently expected that the supreme court will hand down its decision in the Frank case on January 15, or shortly thereafter. The filing of the defense's supplemental brief will not, it is said, serve to delay the decision.

Exception is taken to that paragraph on the very first page of the state's brief which reads as follows: "The evidence shows circumstances indicating that this young man was addicted, prior to April 26, to acts of perversion."

"Not a line of the evidence in the record shows this," declares the reply brief, "except the evidence of the negro, Jim Conley, which is discussed in the original brief."

NO FEAR OF FRANK.

Referring to the state's contention that Mary Phagan stood in fear of Frank the brief says: "This remarkable fact exists. There is not a line in the record to show that Mary Phagan was in fear of this defendant, but, on the contrary, though laid off for a few days because of scarcity of material in her department, her intention was to return to work as soon as the material arrived. If Mary Phagan had reason to fear Frank, would she have come to the

factory for her pay on a holiday, when she would expect nobody but Frank to be there?"

Taking up at some length the testimony of witnesses whose evidence furnished the facts for Frank's time alibi, the brief asks "When could Frank have killed Mary Phagan?" Emphasis is laid upon the fact that according to the time testimony Frank would have had to have committed the murder in eight minutes and gotten back to work in his office.

ALLEGED BIAS OF JURORS.

The alleged bias of jurors Henslee and Johenning is discussed, as is also the allegations of the defense that the jury was influenced by demonstrations against Frank which occurred in the court room and upon the streets outside the courthouse.

Commenting upon the state's declaration that nothing was done at the trial to show ill-feeling toward the defendant, the reply brief says: "Did there exist a more powerful method of showing ill-feeling against the defendant than to cheer his adversary at every point, and deride the efforts of his counsel? We cannot agree what the jury was so dense as not to be able to fully comprehend the significance of these demonstrations."

Solicitor Hugh M. Dorsey Wednesday morning formally turned over to the supreme court as part of the evidence in the Frank case the large diagram of the National Pencil factory which was introduced by the state at the trial in the lower court. This diagram shows both exterior and interior views of the factory, and was used by the state to illustrate the evidence of its witnesses.